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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/684,324	10/10/2003	William Stuchlik	ALTO 4335.3	9423

321 7590 05/08/2006

SENNIGER POWERS
ONE METROPOLITAN SQUARE
16TH FLOOR
ST LOUIS, MO 63102

EXAMINER	
TILL, TERRENCE R	
ART UNIT	**PAPER NUMBER**
1744	

DATE MAILED: 05/08/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/684,324	STUCHLIK ET AL.	
	Examiner	Art Unit	
	Terrence R. Till	1744	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-35* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☒ Claim(s) *1-30* is/are allowed.

6)☒ Claim(s) *31 and 34* is/are rejected.

7)☒ Claim(s) *32,33 and 35-38* is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☒ Interview Summary (PTO-413) Paper No(s)/Mail Date. *20060504* .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Reissue Applications

1. Upon further review, and in consideration of applicant's remarks, the rejection of claims 1-38 under 35 USC 251 is WITHDRAWN. From section 1402 of the MPEP which states, in part:

> "The courts have not addressed the question of correction of the failure to adequately claim benefit under 35 U.S.C. 119(e) in the application (which became the patent to be reissued) via reissue. If the application which became the patent to be reissued was filed prior to November 29, 2000, correction as to benefit under 35 U.S.C. 119(e) would be permitted in a manner somewhat analogous to that of the priority correction discussed above. Under no circumstances, however, can a reissue be employed to correct an applicant's mistake by adding or correcting a benefit claim under 35 U.S.C. 119(e) where the application, which became the patent to be reissued, was filed on or after November 29, 2000."

2. Therefore, since the reissue application is based on applicants' patented application that was filed July 21, 2000, applicants' are permitted to file a reissue application with the declaration stating that the at least one error was failure to claim priority under 35 USC 119(e).

3. Additionally, applicants are reminded that, because changes have been made to the specification, applicants need to file a supplemental Oath/Declaration for Reissue Patent Application (form PTO/SB/51S) to correct errors that are not covered by the prior filed oaths/declarations. This needs to be done before the application can be allowed. See MPEP 1414.01.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

> having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5. The factual inquiries set forth in *Graham* v. *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

6. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

7. Claims 31 and 34 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Burgoon '567 in view of Briscoe (WO '737).

8. The patent to Burgoon discloses an apparatus for use by an operator on a surface comprising: a vehicle 22 adapted to move across the surface; a head assembly 44 on the vehicle for treating the surface; a support, or nut, 200 connected to the head assembly; an actuator on the vehicle comprising a screw 198 in threaded engagement with the support, and a motor 186 for rotating the screw to raise and lower the support and the head assembly connected thereto; a spring 210 co-axial with the screw interposed between the support and the head assembly and a

connector assembly 176,202,204 connecting the head assembly to the support. Burgoon does not disclose of any control device to control the pressure, or distance for the head with respect to the surface. The publication to Briscoe discloses a control 31 responsive to user input 24 for controlling the actuator to lower the support 14 until the head assembly is in contact with the surface and the spring is compressed a preset amount corresponding to the user input. It would have been obvious to a person skilled in the art at the time the invention was made to provide the device of Burgoon with a control responsive to a user input in view of the teaching of Briscoe so that a user could control and adjust the pressure/distance of the head assembly with respect to the floor, thus not damaging the floor and yet still cleaning it effectively.

Allowable Subject Matter

9. Claims 1-30 are allowed.

10. Claims 32, 33 and 35-38 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

11. The following is an examiner's statement of reasons for allowance: With respect to claim 28, the prior art does not disclose nor render obvious the claimed combination of subject matter, particularly a sensor for sensing when the head assembly is lowered to a position corresponding to contact of the head assembly with the surface, and for generating a signal in response thereto; and a control responsive to user input and the sensor for controlling the actuator to drive the support down to lower the head assembly until said signal is received and thereafter to drive the support down an additional distance to compress the compressible member an amount corresponding to said user input. The closest prior art, to Briscoe, has the sensor 20 generate a

signal corresponding to the amount of pressure applied to the head assembly; not to generate a signal when the head assembly contacts the surface. Nor does the controller then drive the support down an additional distance after the signal has been transmitted from the sensor.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Response to Arguments

12. Applicant's arguments filed 3/16/06 have been fully considered but they are not persuasive. With respect to claims 31 and 34, applicant states that claim 31 recites that the control is responsive to user input to lower the support until the head assembly is in contact with the surface and the spring is compressed a preset amount corresponding to the user input. Once again, claim 31 recites that the spring is compressed a preset amount. Which corresponds to the additional distance recited in claim 28. Thus claim 31 is patentable over Briscoe for the same reasons that claim 28 is. The examiner disagrees with the claim interpretation of applicants. With respect to the application of Briscoe, in claim 31, all that is recited is "a control responsive to user input for controlling the actuator to lower the support until the head assembly is in contact with the surface and the spring is compressed a preset amount corresponding to the user input". There is no recitation of a sensor producing a signal indicating when the head assembly contacts the surface. The user input is the desired brush pressure and the controller lowers the support and head of Briscoe, only stopping when the preset amount of compression force of the spring equals the preset value of pressure determined by the user. There are simply more

limitations in claim 28 than are in claim 31 and it is those limitations, as identified in the examiner's reasons for allowance that define over the prior art of record.

Conclusion

13. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Terrence R. Till whose telephone number is (571) 272-1280. The examiner can normally be reached on Mon. through Thurs. and every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gladys P. Corcoran can be reached on (571) 272-1214. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Terrence R. Till
Primary Examiner
Art Unit 1744

trt